In December 2002, a New York City judge vacated five convictions from the highly profiled “Central Park jogger” rape case on the basis of a belated confession. Mathias Reyes, imprisoned upstate for another rape, declared that he had committed the crime alone; his confession was confirmed by DNA evidence, a form of verification absent in 1989 when a jury convicted a group of minority youths for a gang rape. How did this apparent injustice come to pass, and how easily could a similar problem unfold in other cases? What are the implications of cases like the Central Park jogger case for the legal system and for activists who become involved with them?

investigating an overturned verdict

One response to the “How was it possible?” question is technology-based: Criminal prosecutions were forever transformed by the development of DNA testing in the 1990s. Yet, while some New York City prosecutors, police, and media commentators continue to doubt that the convicted youths in the Central Park case were entirely innocent, parties familiar with the case in 1989 were likely to agree that, given the physically brutal character of the crime itself, the original case was notably lacking in forensic evidence. This observation struck me, too, when I started to research this among other high-profile cases. Yes, taped confessions of the eventually convicted youths had been obtained. But why hadn’t evidence based on clothing, semen identification, or other circumstantial matches emerged in 1989 to link the crime definitively to the five defendants? Defense attorneys failed to argue convincingly that the confessions obtained were therefore insufficient and conceivably the result of pressure and fear—in a word, coercion. Puzzling over this evidentiary issue led me to a more context-based explanation of the problem in the Central Park case. Perhaps in the politicized environment surrounding the case in 1989, the “facts” of the legal case became hard to separate from the social causes the crime came to symbolize.

In the 1980s and 1990s several high-profile violent crimes, including the Central Park case, served as vehicles for public debate on issues concerning gender, race, and (to some extent) class discrimination that had been brought into American cultural awareness, yet hardly resolved, by social movements of the 1960s and 1970s. They turned into what Lisa Cuklanz has called “issue-oriented trials brought to the fore by social movements.” These cases fostered a distinctive mode of politicized debate that had at least one advantage for political activists and the news media: Single cases provided larger-than-life narratives from which to draw not only particular but also general points. They attracted attention as specific and concrete crime stories, yet they simultaneously allowed Americans, as William Gamson has argued, to “talk politics” on a wide range of subjects concerning social injustices.

Debating symbolic issues through high-profile crimes generated a particular conundrum that has different ramifications depending on whether we view it from the perspective of the law or that of social movements. For, by their very character, high-profile crimes of the kind I came to dub “provoking assaults” merge two potentially conflicting identities. On the one hand, such crimes predictably lead to legal trials requiring either/or verdicts (not guilty or guilty). On the other hand, media publicity and diverse public reactions encourage such cases to mushroom into symbolic cultural entities. They become not just individual instances of particular crimes but a form of class action, fostering impassioned public debate about social problems ranging from rape and domestic violence to police brutality and misconduct. Individual crimes can be redressed, at least to some extent, via verdicts; the larger problems of discrimination with which these crimes are conflated, however, are difficult to resolve and multidimensional in their origins.
Like similar high-profile crime cases, the Central Park case quickly became notorious both as a horrific individual crime and, given its larger social context, as a symbol of gender and racial discrimination (on the prosecution and defense sides, respectively). A string of cases—from the Central Park case (committed and tried between 1989 and 1991) through the O.J. Simpson case (committed and tried between 1994 and 1996)—became provoking assaults with a common set of defining traits. Such cases symbolize larger social problems and generate debates about the actual culpability of victims or the possible victimization of the (alleged) victimizers. In the wake of verdicts that recognize only one side or the other’s symbolic legitimacy, lingering dissatisfactions often draw attention to new and thematically related high-profile crimes through a combination of journalistic, public, and legal reactions. For instance, following O.J. Simpson’s acquittal in his criminal trial, a civil trial resulted in a conviction; following the acquittal of police officers in the Rodney King state trial, a federal trial reversed the decision and found them guilty.

Such cases became common cultural references in the late 1980s and early 1990s through a combination of three factors. First, public opinion polls showed that concerns about violent crime had begun to rise even before 1989, setting the stage for the “tough-on-crime” political environment that has now taken on both figurative and literal institutionalized rigidity. Second, progressive social movements found themselves taking on both figurative and literal institutionalized rigidities. First, public opinion polls showed that concerns about violent crime had begun to rise even before 1989, setting the stage for the “tough-on-crime” political environment that has now taken on both figurative and literal institutionalized rigidity. Second, progressive social movements found themselves taking on both figurative and literal institutionalized rigidities. First, public opinion polls showed that concerns about violent crime had begun to rise even before 1989, setting the stage for the “tough-on-crime” political environment that has now taken on both figurative and literal institutionalized rigidity. Second, progressive social movements found themselves taking on both figurative and literal institutionalized rigidities.

High-Profile Crimes: playing race against gender through media coverage

According to a New York Times story by Don Terry, the police received 28 other reports of first-degree rapes or attempted rapes during the week of April 16–22, 1989, of which 23 involved victims (or alleged victims) who were minority women, yet only the assault on the young woman jogger, a white investment banker, received intense local and national media attention. According to several reporters I interviewed, the reason for the unusual coverage was that the rape occurred in Central Park itself, a landmark location. Other reporters for major newspapers asserted it was the especially brutal character of the crime that generated the extraordinary interest (even though other women assaulted that week—one was raped and thrown off a Brooklyn rooftop)—also sustained serious injuries.

Racially loaded language used in three of the four newspapers operating in New York City at the time—the Daily News, New York Newsday, and the New York Post—gave the case even greater notoriety, bringing outraged reactions from social movements that led to further media coverage. The three dailies colluded, if not expressly, in referring to “wolf packs” alleged to have wandered through the park and on the city’s subways before and during that April evening. While witnesses and other media accounts confirmed that a series of crimes had been committed that night, the inflammatory animal imagery, Darwinesque in its associations, had the effect of linking a particular group of defendants—the young men who had confessed—to the crime long before they were tried, when they were still supposed to be presumed innocent. Adding fuel to the fire were dramatic assertions in the media that the young men had been engaged in what sounded like self-conscious activity given a sociological twist: “wilding.” We learned only later that the youths had not used that word to describe their actions at all, but in reference to the Tone-Loc song, “Wild Thing.”

Not surprisingly, angry public reactions to the apparent racism of mainstream media accounts soon surfaced. Political activism of the kind that had already begun to revolve around high-profile crimes in New York City was now channeled into the Central Park case. Several ministers, including Al Sharpton, already known in the city for his previous protests against racism during the 1986 Howard Beach case (and the Bensonhurst case, which occurred four months later, overlapping with the Central Park case), decried the racial stereotyping implicit in “wolf pack” and “wilding” allusions. William Perkins and other local community activists around Schomburg Plaza, where several of the defendants lived, questioned how the young men could possibly receive a fair trial given the negative media coverage. Other concerned parties like lawyer Colin Moore, later hired to defend one of the

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accused, compared the Central Park case to the famous Scottsboro case of the 1930s—the most high-profile trial of that decade—even though some precision was lost in the comparison. The Scottsboro case involved nine young black males accused of a rape that never occurred, whereas in the Central Park case, the occurrence of the brutal attack was never in doubt.

At the same time, the Central Park case resonated with growing concerns about urban violence not only against the poor but now—through this assault on an investment banker who lived near Central Park—against the city’s middle and upper classes as well. Articles and editorials on urban crime gone amok were rampant, many expressing anger about the gendered aspects of the crime. Susan Brownmiller, author of *Against Our Will: Men, Women and Rape*, and other feminist political figures in New York City, including Elizabeth Holtzman and Ronnie Eldridge, contributed editorials to major newspapers bemoaning violence against women. Then, on May 6, 1989, Donald Trump took out approximately $85,000 worth of newspaper advertisements in the *New York Times*, the *Daily News*, the *New York Post* and *New York Newsday* that turned up the heat surrounding the case. He called for retribution, although at the time the youths arrested for raping the jogger had not even been tried. Trump called for capital punishment in a full-page *Times* ad that rhetorically inquired,

“What has happened to our City over the past ten years? … What has happened to the respect for authority, the fear of retribution by the courts, society, and the police for those who break the law? … What has happened is the complete breakdown of life as we know it … roving bands of wild criminals roam our neighborhoods, dispensing their own vicious brand of twisted heat on whomever they encountered … I want to hate these muggers and murderers. They should be forced to suffer, and when they kill, they should be executed for their crimes. Send a message loud and clear to those who would murder our citizens and terrorize New York: Bring Back the Death Penalty and Bring Back Our Police!”

Inflammatory media coverage and public reactions contributed to two political responses—one emphasizing gender and the other racial discrimination—that in turn provoked further public reactions and more media coverage. In this heated environment—and given that, by this definition, the Central Park case exemplified a provoking assault—a legal case had become symbiotically enmeshed with not one but two causes. Would jurors be able to separate case and cause(s) in their own reactions?

implications for law and politics

By 2005, high-profile cases of the provoking-assault variety generated a subspecialty, a new kind of expertise, within the law. Some lawyers skilled at prosecuting or defending high-profile cases came to believe in the importance of using jury consultants such as Roy Black, the Miami defense attorney in the William Kennedy Smith and William Lozano cases. Other attorneys advocated intensive public relations campaigns as a significant element of their overall legal strategies, particularly as a way to alter contaminated perceptions of defendants. (Alan Dershowitz took this approach in defending Mike Tyson, among other well-known clients.) By now, too, defense lawyers often seek venue changes once media coverage has saturated a given locality with depictions of accused parties that seem to presume guilt. The first Rodney King trial was moved from Los Angeles to Simi Valley in 1992; the acquittal of four police officers set off riots in Los Angeles. More recently, defense lawyers moved the trial of another police misconduct case—the Diallo case, in
which police mistakenly fired 41 bullets to kill a Guinean man in
the Bronx—from New York City to Albany, which may also have
contributed to the acquittal of the officers involved.

In the Central Park jogger trials, no venue change was
sought, although a good argument could have been made that
it was difficult to find jurors unaffected by the media’s glaring
use of racial stereotypes. And members of the Manhattan dis-
trict attorney’s office may have become predisposed through
media coverage to endow the case with symbolic significance.
According to several defense attorneys I interviewed, the DA’s
office was determined to win convictions in the notorious case,
evocative as it had become of the city’s safety, or lack thereof.
According to William Kunstler, who was asked by the mother
of defendant Yusef Salaam to represent her son on appeal,

“The defendants went into this trial with a hard row to
hoe, believe me. … in the jogger case, you had the age-
old syndrome of white woman, black man,
sexual crime, and so on … and then make it a
middle-class white woman, a woman who
worked for a stockbroker’s firm, and you get
an even worse situation. … And then I think
Donald Trump had taken an ad. … The young
men were portrayed as wilding beasts, and so
on, and so you have an instantaneous public
reaction against the defendants. This is not to
say that the jogger wasn’t terribly, terribly
abused, okay? Nothing like that. … It’s just
that the identity of the victim and the attack-
ers racially, and even her economic identity,
played against the defendants from start to
finish. It permeated the judge, the jury, the
press, people on the street …”

In this atmosphere, then, jurors confronted
not only a high-profile crime but a high-pressure
dilemma. On the one hand, they were being
asked to adjudge the particular facts of this single case. On the
other, they knew their verdicts would carry immense symbolic
meaning, legitimizing either the race-related or the gender-
related side of controversies originating outside the courtroom.
No doubt, as my interviews with some of the jurors in the first
Central Park trial confirmed, jurors in high-profile crime cases
regularly make good-faith efforts to disentangle one level from
the other. Nonetheless, to the extent that such cases become
forums for attempts to resolve larger social issues, at least in
contemporary America, confusion is likely to arise. The confla-
tion of legal cases and political causes, which the Central Park
case vividly demonstrates, can have problematic effects on both.

The merging of cases and causes that is characteristic of
provoking assaults may feed public cynicism not only about
media spectacles but also about the criminal justice system
itself. Outcomes may symbolically vindicate one side of the
public debate concerning a particular case and not the other.
The 1990 conviction of the Central Park defendants satisfied
those concerned about the violent act committed against a
young woman, but clearly not those worried about racial
stereotypes hindering fair prosecution of the crime. Later that
same year, the conviction of a white defendant, Joey Fama, for
shooting Yusef Hawkins in the Bensonhurst section of
Brooklyn satisfied those concerned about racial biases, but
clearly not neighborhood residents who felt that all
Bensonhurst youth had been unfairly stigmatized through
media coverage of that brutal crime.

What if a verdict in any case, actual or hypothetical,
seems to conform to the public outcry more than to the evi-
dence? Many people felt that this was exactly what hap-
pened when O.J. Simpson was acquitted with the assistance
of a “dream team” of lawyers (including Dershowitz and
the late Johnnie Cochran). And this could be what hap-
pened in the Central Park case, too—a situation that fosters
cynicism and casts doubt on the legal system’s legitimacy
during times when—as in the 1980s and 1990s—one high-
profile crime case after another was arousing strongly politi-
cized passions and interventions.

But what about social movements? Do they sometimes
also benefit from crimes that crystallize, viscerally and pow-
ernfully, issues like rape and police brutality that would not
otherwise attract such concern? To some extent, this is
undeniable. Yet I would add that, even for social move-
ments, provoking assaults can be double-edged in their
effects. On the one hand, partly as a consequence of the publicity surrounding high-profile crimes, public awareness of rape and its traumatic effects has increased. The same is true for public awareness of police brutality and misconduct, which have disproportionately affected young minority males across the United States.

On the other hand, high-profile crimes are ultimately individual cases, not class actions. They are likely to disappoint because they cannot deliver more than they promise—unless movements are vigilant about separating the particular from the general. Activists must carefully distinguish between legal cases and social causes lest public cynicism begin to characterize not only attitudes toward the law but also views of social movement issues and their proponents as well. For instance, by the time of the Central Park jogger case, Al Sharpton’s credibility in using high-profile crime cases to make politically potent symbolic points had been damaged by his previous involvement with Tawana Brawley, a young black woman who accused white police officers of rape. The case never came to trial for lack of evidence and was eventually dismissed. The facts of that 1988 case—which received more publicity in New York City immediately prior to the Central Park jogger case than any other—did not support the social causes, a combination of racism and sexism, which the case symbolized. Similarly, at least some people grew more cynical when a number of political activists supported O.J. Simpson whether or not he appeared to be guilty. Judging from several interviews I conducted in southern California, some white liberals veered reactively in a conservative direction, paradoxically deflecting their attention from complaints about police misconduct with which they had previously agreed.

Consequently, the merging of legal cases and social causes that occurs in provoking assaults means that activists must proceed with care. In some instances, the circumstances of a particular case may indeed correspond to the symbolic significance attributed to it; in other cases, the two may not fit. Then too, as I have argued, individual verdicts cannot replace the major social reforms required to improve the conditions of groups. Nonetheless, when taken with a grain of salt and a great deal of reflexive awareness, high-profile crimes of the provoking-assault variety can be useful to a social movement in fighting ongoing discrimination.

**Recommended resources**

Lisa M. Cuklanz. *Rape on Trial: How the Mass Media Construct Legal Reform and Social Change* (University of Pennsylvania Press, 1996). Asks why the Rideout, New Bedford, and Webb-Dotson rape trials were more publicized than others, assessing the relationship of these cases to rape reform efforts.


